

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-359

February 28, 2000

BELL-ATLANTIC – MAINE
Proposed Tariff for Physical, Virtual,
Microwave Collocation, Interconnection
Between Collocated Spaces, Scope, CCOE,
Shared Cages and Adjacent Structures

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. Summary

In this Order, we allow Bell Atlantic-Maine's proposed collocation tariff to take effect on the date of this Order.

II. Background

On May 28, 1999, Bell Atlantic-Maine (BA) filed its Proposed Tariff for Physical, Virtual, and Microwave Collocation, Interconnection Between Collocated Spaces, Secured Collocation Open Physical Environment (SCOPE), Cageless Collocation Open Environment (CCOE), Shared Cages and Adjacent Structures (Proposed Collocation Tariff) for effect on June 27, 1999. On June 25, 1999, the Commission suspended the effective date of the tariff for three months. On September 27, 1999, the Commission suspended the effective date of the tariff for another five months.

On October 5, 1999, Votts Networks, Inc. (Votts) filed a Petition to Intervene in this matter. Votts alleges that in order to provide some forms of service it will be required to collocate with Bell Atlantic and obtain other services covered by the proposed tariff. Bell Atlantic did not object to Votts's petition and Votts's petition was granted on November 23, 1999.

Also on November 23, 1999, a procedural order was issued requesting comments by December 30, 1999, on five specific topics as well as the proposed tariff in general. On December 23, 1999, the Hearing Examiner granted Votts's request to extend the deadline for comments until January 6, 2000.

On December 30, 1999, AT&T filed comments indicating AT&T's belief that the proposed tariff did not comply with the Federal Communications Commission's First Report and Order in CC Docket No. 98-147, Deployment of Wireline Services Offering Advanced Telecommunications Capability, (FCC 99-48 released March 31, 1999)(Advanced Services Order). AT&T alleged that the tariff: (1) does not reasonably accommodate CLEC collocation requests in its provisioning intervals; (2) imposes inappropriate restrictions on tours of central offices; (3) improperly limits the types of

equipment that can be collocated; (4) imposes unreasonable safety or performance standards on CLEC collocation equipment; (5) imposes unreasonable access requirements on CLECs once equipment is installed; (6) violates the Advanced Services Order requirements for cageless collocation; and (7) offers inadequate shared collocation arrangements. AT&T claims that the tariff must be revised in order to promote rather than retard competition.

On January 5, 2000, BA filed comments arguing that the Commission may lawfully approve the proposed tariff prior to concluding its investigations of BA's supporting cost studies. BA states that approval of the tariff does not prejudice the Commission's subsequent ability to review and alter the effective tariffs, if necessary.

On January 6, 2000, Vitts filed comments requesting that BA's tariff be approved on an interim basis, subject to true-ups and revisions upon completion of a Commission investigation of both BA's cost supports for the tariff and compliance with the FCC's Advance Services Order. Vitts specifically requests that the Commission: (1) reduce recurring collocation rates, especially power; (2) reduce non-recurring rates to reflect work related efficiency gains; (3) improve terms and conditions of several elements; (4) decrease the collocation time intervals to 30 calendar days; and (5) direct BA to submit rates, terms and conditions for sub-loop network elements.

III. DECISION

We have reviewed the comments of the parties and find that the most appropriate action at this time is to allow BA's tariff to go into effect. This will allow CLECs to take advantage of the availability of standard collocation terms as well as cageless collocation while we continue to examine some of the issues raised by the parties. With regard to pricing in the tariff, the cost studies BA has submitted in support of the tariff are based upon cost studies submitted in Docket No. 97-505, Investigation Into the Total Element Long-Run Incremental Cost (TELRIC) Studies and Pricing of Unbundled Network Elements. The Commission has not yet approved these cost studies but expects to resume its examination of them in the near future. Accordingly, once our review of the underlying cost studies is complete, we will require BA to modify the rates contained in the tariff to be consistent with our findings in Docket No. 97-505.

At this time we do not address the suggestion that we require BA to modify its tariff so that if we order future changes in the pricing, such changes will apply retroactively to the effective date of the tariff. Instead, we will immediately seek comments from the interested parties on our legal authority to require such retroactive treatment. After we review those comments, we will decide if further action is necessary.

With regards to the various terms and conditions to which AT&T and Vitts objected, the Commission will continue to examine whether they meet the FCC's Advanced Services Order requirements. We would be particularly concerned if BA's terms and conditions unnecessarily restrict CLEC access to their own equipment,

require higher standards than BA-ME imposes on itself, and/or generally restrict rather than promote competition. We will initiate a separate review of the terms and conditions coincident with our review of the underlying cost studies. Until that time, any carrier is free to petition the Commission to address any specific problems associated with collocation.

Dated at Augusta, Maine, this 28th day of February, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.